



Rules and Ancillary Document Review Checklist
(This form must be filled out electronically.)

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-111—Advances and reimbursements.**

Date last adopted: **May 29, 1970**

Reviewer: **Ed Ratcliffe**

Date review completed: **November 15, 2000**

Is this document being reviewed at this time because of a taxpayer or business association request? (If “YES”, provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request). YES ☐ NO **X**

Type an “x” in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

- 1. Explain the goal(s) and purpose(s) of the document: This rule explains that amounts received as an advance or reimbursement of amounts expended or to be expended by a taxpayer in payment of costs or fees for a customer or client may be excluded from the measure of tax. The rule defines the terms “advance” and “reimbursement”, clarifies the circumstances under which these terms apply, and provides examples.**

2. Need:

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	X	Is the document obsolete to a degree that the information it provides is of so little value that the document warrants repeal or revision?
	X	Have the laws changed so that the document should be revised or repealed? (If the response is “yes” that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
X		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington’s citizens? (If the response is “no”, the recommendation must be to repeal the document.)

Please explain.



This rule aids businesses to understand the exclusion of “advances” and “reimbursements” from “gross income.” The definition of “gross income” has not changed and subsequent interpretations have been based in large part upon the actual language of this rule.

3. Related ancillary documents, court decisions, BTA decisions, and WTDs: Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an ancillary document. Excise Tax Advisories (ETAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered ancillary documents.

(a)

YES	NO	
	X	Are there any ancillary documents that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
X		Are there any ancillary documents that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this ancillary document be incorporated into a rule?
		Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that affects the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

The following interpretive statements can be repealed (see ancillary document review checklists for each):

- **ETA 88.04.111-Deduction of advances and reimbursements**
- **ETA 410.04.111-Employee reimbursed gasoline costs**
- **ETA 411.04.111-Activities performed by nonprofit associations**



Information now provided in ETA 51.04.111—Reimbursements for performance bond premiums, explains that a construction contractor may not deduct amounts paid to cover the contractor’s performance bond premiums from the measure of tax. This information should be incorporated into WAC 458-20-170 (Constructing and repairing of new or existing buildings . . .).

**4. Clarity and Effectiveness:**

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities, help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do any administrative changes within the Department warrant repealing or revising this document?

Please explain. **The rule is clear and well organized.**

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statutes that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If “no”, identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statutes being implemented by this document?

Please explain. **RCW 82.32.300 provides the department with authority to make rules necessary to implement RCW chapters 82.04 (B&O tax). This rule helps implement the B&O tax by explaining the exclusion of “advances” and “reimbursements” from gross income.**



6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain. **The department has the exclusive authority for implementing this tax.**

7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain. **This is an interpretive rule that does not impose any administrative burdens on taxpayers that are not already imposed by law.**

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain. **The rule currently results in equitable treatment.**

9. LISTING OF DOCUMENTS REVIEWED: (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, ancillary documents, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented:

- **RCW 82.04.070 “Gross proceeds of sales;” and**
- **RCW 82.04.080 “Gross income of the business.”**



Ancillary Documents (i.e., ETAs, PTBs, and Ads): (ETAs for which an ancillary document review checklist was not completed are listed below under “Other Documents”).

- **ETA 51.04.111—Reimbursements for performance bond premiums**
- **ETA 88.04.111-Deduction of advances and reimbursements**
- **ETA 410.04.111-Employee reimbursed gasoline costs**
- **ETA 411.04.111-Activities performed by nonprofit associations**

Court Decisions:

- **E.I. Du Pont de Nemours & Co. v. State**, 44 Wn.2d 339, 267 P.2d 667 (1954) Reimbursed costs from government for constructing and operating a nuclear power plant was income to the contractor.
- **John H. Sellen Constr. Co. v. Department of Rev.**, 87 Wn.2d 878, 885, 558 P.2d 1342 (1976) Acacia Memorial Park received funds from Acacia Memorial Park Permanent Care Fund, a charitable trust devoted to maintaining the cemetery, to reimburse it for the cemetery’s care and upkeep. The trust agreement allowed the Park to expend funds for the trust’s obligations and be reimbursed for these amounts. The amounts at issue were reimbursements to the Park as an agent for the trust.
- **Christensen, O’Connor, Garrison & Havelka v. Department of Rev.**, 97 Wn.2d 764, 649 P.2d 839 (1982) Reimbursed charges of third parties hired by a patent attorney to provide services for his client are not subject to B&O tax, unless he assumes such liability.
- **Walthew, Warner, Keefe, Aaron, Costello & Thompson v. Department of Revenue**, 103 Wn.2d 183, 189, 691 P.2d 559 (1984) Rule 111 allows pass-through for reimbursements or advances of funds payments made by attorneys in advancing the litigation costs for their clients.
- **Rho Company v. Revenue**, 113 Wn.2d 561, 782 P.2d 986 (1989) Employment agency may pass through salary payments received for workers if agency relationship established between employment agency and firm using the workers and the firm using the workers is the actual employer of the workers based upon the control it has over these workers.
- **Boise Cascade Corp. v. State**, 3 Wn. App. 78, 473 P.2d 429, *review denied*, 78 Wn. 2d 995 (1970), Payroll reimbursements made to a construction contractor were part of the retail purchase of construction and not Boise Cascade as employer making salary payments to its own laborer through an agent (the construction contractor).
- **Medical Consultants N.W. v. Washington**, 89 Wn. App. 39, 947 P.2d 784 (1997) Medical Consultants acted as agent hiring doctors on behalf of clients to perform medical exams and provide medical opinions. When doctors agreed to payment only after medical consultants received payment, the consultant had no liability for these payments and could pass them through to the doctors.

Board of Tax Appeals Decisions (BTAs):

- **Olympia Sheet Metal Inc. v. Revenue**, BTA 52716 (1999) Payments out of union trust when bidding on jobs against employers with non-union labor was not a “reimbursement” under Rule 111.
- **Harley Hoppe & Associates v. Revenue**, BTA 47454 (1997) Representatives in property tax proceedings may pass through reimbursements for associate counsel, but only in those cases when the representatives are subject to the Rules of Professional Conduct.



- **Pilcher v. Revenue, BTA 46920 (1996)** Doctor contracting to provide emergency room medical services may not pass through payments to doctors contracting with the doctor to meet the contract obligation that he has liability for.
- **Lane & Lane v. Revenue, BTA 46189 (1996)** Seller of commercial real property provided the purchaser a “wrap mortgage” on the sold property that included loans upon which it remained obligated. The seller could not pass through interest payments made on the “wrap mortgage” that were then used to pay the underlying indebtedness that it remained liable upon.
- **Mills & Uchida Court Reporting, Inc. v. Revenue, BTA 46110-18 (1996)** Court reporter service that contracted out excess work was not reimbursed as an agent for these third party services.
- **Metronet Services Corp. v. Revenue, BTA 46012 (1996)** Contract titled “agency agreement” was not supported by the facts for pass-through treatment. Taxpayer was engaged in reselling telephone service.
- **Welfare & Pension Administration Service, Inc. v. Revenue, BTA 43947 (1995)** Telephone, postage, and printing costs for customized forms and stationary were overhead costs of business and not pass-through amounts to trusts.
- **United Parking v. Revenue, BTA 42668 (1994)** A parking lot operator under a “cost plus fixed fee” contract may not flow through the reimbursed costs as the operator is not the agent of the owner.
- **Sequim Family Practice Center v. Revenue, BTA 41700 (1992)** Three doctors were allowed pass through for amounts paid to lab (owned by the doctors), because Department conceded that the lab work was not performed by the doctors and oral testimony demonstrated that the doctors were not liable for the payment amounts.
- **Professional Promotion Services, Inc. v. Revenue, BTA 36912 (1990)** Advertising agency could not pass through postage payments advanced by its clients as Post Office did not treat agency as an agent purchasing the postage.
- **Factory Mutual Engineering Association v. Revenue, BTA 36836 (1990)** Subsidiary performed inspection services for three parent insurance companies. The subsidiary was found to be engaged in business for purposes of the B&O tax. Case was remanded for Dept. to determine if reimbursements for these services could be treated as a pass-through under Rule 111.
- **Group Health Cooperative v. DOR, BTA 91-11 (1991)** HMO providing medical services could obtain pass through treatment for amounts paid to referral contract physicians. Staff model HMO acted like other non-staff model HMO’s when it used contract physicians and should get the same treatment as these other HMOs.
- **Simpson Timber Company v. DOR, BTA 30192, 1 WTD 445 (1986)**, Interest on two loans to Canadian affiliates were not deductible. BTA found that Simpson Timber Company is engaged in financial business because it makes regular and recurring loans to its subsidiaries and therefore cannot isolate loans to two subsidiaries for exemption under the provisions of RCW 82.04.4281.
- **Keyes v. DOR, BTA 31630, 2 WTD 305 (1986)**, Interest paid on real estate contracts for condominium/slip moorage was as result of business activity and not investment.
- **Detlefson v. DOR, BTA 84-38 (1985)**, Interest earned by developer on real estate contracts is not “investment.”



- **Valley Cement Construction, Inc. v. DOR, BTA 71-70 (1971)**, Valley Cement maintained payroll and made purchases for affiliated corporations. It was solely liable to the employees and suppliers for these expenses. It could not claim a deduction of this income under Rule 111.



Administrative Decisions (e.g., WTDs):

- Det. 87-234, 1 WTD 103 (1986), Affiliate corporation's sole function was paymaster/employer for several businesses, salary reimbursements were allowed flow through treatment under Rule 111.
- Det. 86-263, 1 WTD 213 (1986), Taxpayer failed to prove it was merely a conduit for payroll of related company. Taxpayer had a written agreement to provide services for related company. The fact that it made no profit upon activities does not prove paymaster status.
- Det. 86-267, 1 WTD 241 (1986), B&O tax described for assignment of loan to purchaser located outside of Washington when loan servicing is done by originating bank within Washington. Gain from assignment of loan subject to tax, not entire proceeds received for assignment of loan. Fees for servicing loan are subject to tax (and are not considered interest payments). Interest received on loan for out-of-state purchaser is not subject to tax as the interest income is for intangible right owned outside the state.
- Det. 85-231A, 1 WTD 309 (1986), Affiliated company that carried employees on its payroll and performed all reporting for employees is not receiving reimbursements for amounts received from affiliated companies.
- Det. 86-289, 1 WTD 337 (1986), Credit bureau "facilitating" credit information to Alaska members may treat as reimbursements amounts received for information when payment meets Rule 111.
- Det. 86-290, 1 WTD 469 (1986), Joint account using medical center name for payment of shared expenses does not represent a separate taxable business subject to B&O tax.
- Det. 86-293, 2 WTD 1 (1986), Engineering firm using consultants could not exclude payments made to consultants based upon an oral understanding that client would be solely liable for third-party consultants services.
- Det. 86-305, 2 WTD 65 (1986) When taxpayer's employees rendered billing, collection, management, technical and professional services to another entity that paid for the services in proportion to the actual cost to the taxpayer on an allocated basis, the amounts received by the taxpayer are subject to B&O tax, even if the taxpayer does not make a profit or provide these services to other entities.
- Det. 87-169, 3 WTD 145 (1987) Payments for drugs furnished as part of a patient's treatment are not "reimbursements" to doctor, even when separately charged.
- Det. 87-267, 4 WTD 11 (1987) Taxpayer provided a driver to drive trucks owned or leased by a second company. The taxpayer received payroll expenses plus a handling fee. Taxpayer was the nominal employer, but the second company exercised complete physical control over the driver and the driver worked exclusively for the second company. The second company was the employer in fact, and the taxpayer was liable for business and occupation tax only upon the 15 percent handling fee.
- Det. 87-269, 4 WTD 17 (1987) Florist transfer charges on out-of-state deliveries are not advances for third-party services.
- Det. 87-340, 4 WTD 221 (1987) Reimbursement from one physician to another physician for shared expenses represents income to that physician and is distinguishable from joint account payments for shared expenses.
- Det. 87-376, 4 WTD 399 (1987) PSRO (Professional Standard Review Organization – a medicare participation requirement for health providers) reimbursements made to the health providers for handling these reviews were payments for services rendered and not "reimbursements" for exclusion under Rule 111.



- Det. 88-7, 4 WTD 423 (1988) Architect hiring third parties must demonstrate that it disclosed agency status to those third parties to claim “reimbursement” under Rule 111.
- Det. 88-9, 4 WTD 433 (1988) Third party created solely as conduit for paying shared expenses of multiple principals does not have B&O tax liability as amounts received are non-taxable “reimbursements.”
- Det. 88-28, 5 WTD 67 (1988) Third party handling affiliate’s payroll as “employer” in name but not in fact (except for Chief Financial Officer) may exclude salary reimbursements.
- Det. 88-208, 5 WTD 403 (1988) Doctor services billed by hospital were contracted for directly by patient and hospital acted merely as conduit for payment to doctor.
- Det. 88-255, 6 WTD 123 (1988) Savings and Loan provided management services for a subsidiary and was reimbursed for utility, printing and postage expenses it paid for the subsidiary. The S&L could only deduct these reimbursed expenses if it was not liable to the providers for these payments.
- Det. 88-256, 6 WTD 133 (1988) A contractor can only deduct reimbursed building permit fees if it can show that the obligation and liability for the permit fee is that of the landowner.
- Det. 88-310, 6 WTD 273 (1988) Tour operator with agency agreement to obtain third-party services for tourists and the providers of these services treat the operator as a travel agent, the operator can deduct reimbursements received for these services.
- Det. 88-363, 6 WTD 393 (1988) Reimbursed labor costs of taxpayer’s own employees are not deductible as reimbursed third-party expenses.
- Det. 88-377, 6 WTD 439 (1988) PS Corporation that did combined billing for itself and partnership with service charge to partnership for this service could deduct amounts received for partnership.
- Det. 88-379, 6 WTD 443 (1988) Processor for hire failed to show that separately billed “natural gas” obtained for its customers was not liable to the producer of the natural gas. Thus, the “reimbursements” for the gas from its customers was not deductible under Rule 111.
- Det. 89-237, 7 WTD 316-7 (1989) Reimbursements to escrow agent for messenger services are not deductible when escrow is liable for the messenger’s charges.
- Det. 89-437, 8 WTD 171 (1989) Separately incorporated attorneys that reimbursed overhead expenses of jointly-owned professional service corporation could not be deducted.
- Det. 89-512, 8 WTD 373 (1989) Hospital bills for emergency room doctor association that has contracted with the hospital to provide emergency room services. Hospital is not acting as the agent of the patients or doctors, but has contracted directly for these services. Payments from the patients are not reimbursements for the doctor’s services.
- Det. 90-95, 9 WTD 189 (1990) Loan processing fees and costs paid for by bank are not excluded as “advances” or “reimbursements” when the bank is liable for paying these costs.
- Det. 90-113, 9 WTD 276-1 (1990) Loan processing fees paid for third-party services must be shown to be sole liability of applicant as understood by the provider. Bank failed to prove that the bank had no liability for fees.
- Det. 90-134, 9 WTD 280-21 (1990) Music producer not entitled to reimbursement exclusion when not solely liable as agent for payments by advertisers for performers controlled by producer.



- Det. 90-135, 9 WTD 280-25 (1990) Payments made by photographer to its representative for lining up advertising gig is not an "advance or reimbursement" by the advertiser for the
- Det. 90-216, 9 WTD 292-9 (1990) Reimbursed expenses attributable to photocopying charges, long distance telephone charges, set-up fees, mileage, and traveling costs constitute the recovery of "overhead charges" and may not be excluded from gross income.
- Det. 90-226, 10 WTD 19 (1990) A real estate brokerage may not exclude reimbursements received from its salespersons for services provided by third parties (such as telephone, multiple listings) from gross income if it is either primarily or secondarily liable for the charges, unless solely as agent.
- Det. 90-253, 10 WTD 47 (1990) Mere payrolling agent whose client retained elements of control listed in RPM 90-1 can exclude salary reimbursements under Rule 111.
- Det. 90-297, 10 WTD 87 (1990) DSHS reimbursements to a group home for its residents bus passes are deductible under Rule 111, but not any amounts that reimburse the group home for its operating costs.
- Det. 90-371, 10 WTD 155 (1990) Temporary employment agency that does not have pervasive control over workers may pass-through payroll amounts paid to the workers received from the business that has control of the workers.
- Det. 91-023, 10 WTD 390 (1990) Medical PS Corp. contracting to provide emergency room services to hospital cannot deduct payments made to doctors that provide the emergency services to meet its contract obligation to the hospital.
- Det. 91-062, 10 WTD 417 (1991) Payments made to separate business for salaries of administrative staff provided for affiliated retailers were not reimbursements under Rule 111.
- Det. 89-275, 11 WTD 13 (1989) Amounts received by a nonprofit organization from its members or other persons for luncheons, seminars, or meetings are not true reimbursements when the organization is liable for payment of the services.
- Det. 89-461, 11 WTD 21 (1989) Refundable deposits from loan applicants to cover the financial institution's costs in processing loan applications (costs for credit reports, title insurance, property appraisals, etc.) held not excludable under Rule 111 when no evidence offered to indicate that the outside consultants recognized that they were to be paid only from funds received from the taxpayer's clients, or that the taxpayer would not be liable to them for compensation if customer funds were not received.
- Det. 90-205, 11 WTD 55 (1990) Amounts received by a dealership from a manufacturer-warrantor for parts furnished in connection with warranty repair services are taxable under the wholesale classification of the B&O tax.
- Det. 91-103, 11 WTD 139 (1991) Federal wine tax amounts reimbursed by wine maker to wholeseller of the wine is liability of wholeseller and not deductible under Rule 111.
- Det. 91-155, 11 WTD 197 (1991) Five doctors had a central corp. that handled administrative matters for the doctors, including accounting and billing services. It retained 5% of amounts received for these services. Payments received by the corporation for the doctors flowed through as the central corp. received these amounts for the doctors and had no contractual liability to the patients.
- Det. 91-164, 11 WTD 334 (1991) Where taxi cab company/lessor is the insured on automobile liability policies and is obligated to pay premiums to the insurer, the money received from independent drivers/lessees for such insurance coverage is taxable under Retailing B&O and



retail sales tax as a recovery of taxpayer's own costs. The payments are not exempt advances and reimbursements.

- Det. 91-210, 11 WTD 389 (1991) Agent soliciting magazine subscriptions can pass through payments received for the subscriptions above its commission amount as it has no liability to the customers for the magazine itself.
- Det. 91-211, 11 WTD 395 (1991) Reimbursements for salaries to loaned employees and overhead expenses are not deductible under Rule 111.
- Det. 91-339, 11 WTD 535 (1991) Reimbursement of salaries and travel expenses when taxpayer acted as paymaster (and was not employer of these employees and officers) were treated as Rule 111 reimbursements. Reimbursements for salaries of taxpayer's employees failed to establish that liability rested with businesses' making the payments.
- Det. 92-073, 12 WTD 131 (1991) Client costs for third-party fees deposited in escrow trust account were not gross income of the escrow company and could be excluded under Rule 111.
- Det. 92-117, 12 WTD 147 (1992) Commission payments for security salespersons under contract with securities dealer are not excluded from the dealer's income. Commission payments for independent security salespersons not under contract with dealer are excluded under Rule 111.
- Det. 92-393, 12 WTD 253 (1992) Client costs for third-party fees deposited in escrow trust account were not gross income of escrow company and excluded under Rule 111.
- Det. 92-195, 12 WTD 383 (1992) Commission payments for independent security salespersons were not excluded under Rule 111 as all dealer's transactions were through these salespersons.
- Det. 92-252E, 12 WTD 417 (1992) Salary payments and other costs that must be reimbursed are not excluded under Rule 111. They remain an expense of the business reimbursing the cost.
- Det. 93-163, 13 WTD 322 (1993) Legal fees billed to the taxpayer as a matter of convenience are excluded provided the taxpayer is not liable for these billed costs.
- Det. 93-191, 13 WTD 344 (1993) Bank did not satisfy burden that reimbursed amounts for reports and appraisal fees were sole liability of customer.
- Det. 93-136, 14 WTD 15 (1993) Although a hospital guaranteed independent contractor physicians minimum profits, the amounts received from patients for physicians' fees were pass-throughs or advances for the hospital because it had no personal liability to pay specific fees to the physicians except as an agent. Revenue from patient billings for non-physician services, supplies, drugs, etc. provided at medical clinics either owned or subsidized by a hospital is taxable to the hospital because it either rendered the services or was personally liable, either primarily or secondarily, to third-party providers.
- Det. 93-166, 14 WTD 22 (1993) Taxpayer is a prime contractor subject to assessment based on the total amount of construction costs even if the owner paid the third-party suppliers and subcontractors directly. The taxpayer benefitted from such payments because they reduced or eliminated the taxpayer's personal liability from the debts. The owner's payments were part of the contract's consideration received by the taxpayer and are considered gross income to the taxpayer.
- Det. 94-004, 14 WTD 167 (1994) A taxpayer who agrees to pay a third-party vendor, to whom a public school district is indebted for goods or for services rendered, and who is neither primarily nor secondarily liable for the goods or services rendered, may exclude from



its gross receipts those amounts received by the taxpayer as "reimbursement" from the public school district.

- Det. 94-035, 14 WTD 199 (1994) Administrative subsidiary providing bookkeeping services for a self-insured affiliated group may exclude reimbursements from affiliates for time-loss compensation and medical costs it paid as agent. It may not exclude payments for its administrative services and other costs for which it was liable.
- Det. 94-047, 14 WTD 210 (1994) Retailer's shipping charges are not reimbursements.
- Det. 94-071, 14 WTD 232 (1995) Payments made by telephone provider to long distance provider is part of its service to clients and not a reimbursement for that client's long distance. The telephone provider contracts for these services and is liable to the long distance provider for payment.
- Det. 94-092, 14 WTD 251 (1995) Payments for third-party services paid to mortgage broker that must be maintained separately are not income to the mortgage broker. Payments for loan document preparation are income and not reimbursements.
- Det. 98-035, 17 WTD 174 (1998) Union subsidies received by a contractor for his union employees are income to the contractor and not "advances or reimbursements." The amounts represent compensation to workers performing services for the contractor.
- Det. 98-008, 17 WTD 236 (1998) Reimbursement for salaries of employees that were under the control of the company receiving the reimbursement do not qualify for pass through treatment under Rule 111.
- Det. 98-203, 18 WTD 412 (1998) Reimbursement received by property management company from property owners for services performed by workers was included in gross income to the extent the workers were found to be the employees of the property management company.
- Det. 98-194, 19 WTD 9 (2000) When a general partner acts as general contractor on a partnership construction project, reimbursements to that general partner for his employees are for services provided and not pass through payments.
- Det. 99-126, 19 WTD 94 (2000) An oral arrangement between employee-placement consultants that the client would be liable for either consultant's portion of the fee does not allow for pass-through status when the client pays the full amount to the consultant the client has contracted with who then pays the other consultant a portion of that fee.
- Det. 99-299, 19 WTD 312 (2000) Tour operator receiving travel agent commissions as part of selling cost could not deduct these amounts as "reimbursements."
- Det. 98-164, 19 WTD 393 (2000) A utility was reimbursed its moving costs by the Department of Transportation when a new road was needed where the utility was formerly. These reimbursements represent income to the utility.

Attorney General's Opinions (AGOs):

None

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

- **ETA 27.04.194-Testing and engineering services by an out-of-state corporation**
- **ETA 73.08.106-Reimbursement of a venturer in a joint venture**



- **ETA 90-1-A Statement of purpose and intent with respect to issues involving employee placement businesses and their clients**
- **ETA 290.16.111-Reimbursements for temporary relocation of utility facilities**
- **ETA 490.04.170.111-Interest on construction loan taxable as part of contract price**
- **ETA 575.04.111-Loan application deposits**



10. Review Recommendation:

_____ Amend

_____ Repeal

— **X** — Leave as is

_____ Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)

_____ Incorporate ancillary document into a new or existing rule. (Subject of this review must be an ancillary document and not a rule.)

Explanation of recommendation: (If recommending an amendment of an existing rule, provide only a brief summary of the changes you've identified/recommended earlier in this review document.)

This rule should be retained as it currently exists.

11. Manager action: Date: _____

_____ Reviewed recommendation

_____ Accepted recommendation

_____ Returned for further action

Comments: